In the High Court of Punjab and Haryana, Chandigarh

CWP No. 3929 of 2004

Date of Decision: October 16, 2006

Suraj Kumar Rodey

…Petitioner

Versus

Haryana Tourism Corporation Limited and another

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Ram Kumar Malik, Advocate,
for the petitioner.

Mr. Sanjeev Kaushik, Advocate,
for respondent No. 1.

Mr. D.S. Patwalia, Advocate,
for respondent No. 2.

JUDGMENT

M.M. KUMAR, J. (Oral)

Learned counsel for respondent No. 2 has raised a preliminary objection that the writ petition is not maintainable for setting aside the judgment and decree dated 23.2.2004 (P-7), inasmuch as, it has been passed by a Court of competent jurisdiction, merely on the ground that the petitioner was not a party to the aforementioned suit. In support of his submission, learned counsel has placed reliance on the judgment of Hon'ble the Supreme Court in

the case of **Smt. Jatan Kanwar Golcha v. Golcha Properties Pvt. Ltd., AIR 1971 SC 374**, as followed by the Orissa High Court in the case of **Abdul Rasid Khan v. Sk. Rahimtulla, AIR 1979 Orissa 175**.

Faced with the aforementioned objection, learned counsel for the petitioner states that he may be permitted to withdraw the writ petition with liberty to the petitioner to file an appeal before a competent Court of jurisdiction against the judgment and decree dated 23.2.2004 passed in Civil Suit No. 22 of 2003 (P-7).

In view of the above, the writ petition is dismissed as withdrawn with liberty in terms of the prayer made. If the appeal is found to be beyond the period of limitation then the petitioner may file an appropriate application in accordance with law, which shall be considered and disposed of accordingly.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

October 16, 2006
Pkapoor